

**REMARKS**

This Amendment is responsive to the Office action mailed August 08, 2006, setting forth a shortened three-month statutory period for reply expiring on November 08, 2006. Additionally, Applicants have included, along with this response, a petition for a three month extension of time, setting the period for reply to expire on February 8, 2006. Claims 1-19, 21-22, 24, 36, and 37 are currently pending in this application. Of the previously stated claims, claims 7-18, 21 and 22 are withdrawn from consideration. Additionally, claim 20 has been amended. A new claim 38 has also been added. Claims 1, 2, 3, 4, 5, 6, 19, 20, 24, 36, 37, and 38 remain in the application and are addressed herein. The Examiner is respectfully requested to withdraw the rejections and objections of the pending claims in view of the remarks and/or amendments contained therein.

**Amendments to the Drawings**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a), stating that the drawings must show every feature of the invention specific in the claims. More specifically, the Examiner states that claim 20 includes a limitation of the brake having a fluid filled vessel with an impeller blade that is not shown in the drawings. Applicants amended claim 20 by removing the technical terms "a fluid filled vessel with an impeller" and adding the technical terms "hydraulic dampening device." The hydraulic dampening device is shown in FIG. 36 and labeled with the reference numeral 314; thus, no new matter has been added. It is respectfully submitted that the drawings illustrate a hydraulic dampening device, and that the specification includes that such a device may be of the type that employs an impeller within a chamber filled with hydraulic fluid. Therefore, this objection is now believed moot. Thus, in light of the amendment to claim 20, Applicant respectfully requests that the Examiner remove this objection.

**Amendments to the Specification**

On page 40 of the Specification, the paragraph beginning at line 1, and ending at line 6, has been amended to correct a minor typographical issue. More specifically, the Examiner stated that "[o]n page 40 line 3 of the Specification, 'belt318' should be changed to -belt 318-." See *Office Action mailed 08/08/2006, page 4*. In compliance with the Examiner's request, Applicants amended the term from "belt318" to "belt 318." Therefore, this objection is moot.

Additionally, the Examiner objected to the disclosure by stating that "[o]n the amended specification dated 7-30-06 [sic], the application refers to itself in the 'incorporated by reference' section." See *Office Action mailed 08/08/2006, page 4*. Since Applicants did not submit any documents on or about 7-30-06, Applicants believe that the Examiner is referring to a Preliminary Amendment that Applicants submitted on 7-30-04. See *Exhibit A*, Preliminary Amendment filed July 7, 2004, Section: "Amendments to the Specification."

Applicants reviewed the "Amendments to the Specification" section of the Preliminary Amendment filed 7-30-04 and respectfully submit that the Examiner is mistaken about the application incorporated by reference. More specifically, the present application incorporates by reference U.S. Patent Application No. 10/789,192 and U.S. Patent Application No. 10/789,579, among other U.S. Patent Applications. While these applications have similar numbers to the present application, none of patent application numbers is equal to Patent Application No. 10/789,294, which is the patent application number for this application. See *Exhibit A*. Accordingly, applicants respectfully request that the Examiner withdraw this objection.

#### **Amendments to the Claims**

Applicants have added new claim 38. Dependent claim 38 depends directly from independent claim 1. Claim 38 states, "wherein the resistance element is positioned at least partially below at least one of the first treadle or the second treadle." This can be clearly shown in at least FIGS. 26 and 28 - 36. Therefore, this is not new matter. Additionally, none of the references cited by the Examiner appear to disclose, teach, or mention the resistance element "positioned at least partially below at least one of the first treadle or the second treadle." Therefore, Applicants believe that this claim is in condition for allowance, and such indication is respectfully requested.

#### **Priority Claim**

The Examiner indicates that "[t]his application list several provisional applications with some having different effective filing dates." See *Office Action mailed 08/08/2006, page 4*. Although Applicants have listed several provisional applications with different effective filing dates, Applicants have only claimed priority under 35 U.S.C. § 119(e) to the following provisional applications: U.S. Provisional Application 60/451,104, U.S. Provisional Application 60/450,789, and U.S. Provisional Application 60/450,890, which all have the same filing date of

February 28, 2003. See *Exhibit A*. Applicants further assert that each of the above-mentioned provisional applications correspond to at least currently elected claims 1 and 14. The other provisional applications have been "incorporated by reference" in their entirety into the specification of this application; Applicants, however, have not asserted a claim of priority regarding them.

#### **Rejections Under 35 U.S.C. § 102**

Claims 1, 2, and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,669,856 issued to Liu (herein referred to as "Liu"). Claims 1-3, and 36-37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,811,517 issued to Eschenbach (herein referred to as "Eschenbach"). Applicants respectfully traverse the rejections based on at least the following remarks.

Applicants respectfully submit that the Examiner has not met the anticipation requirement, and further respectfully suggest that the art cited under 35 U.S.C. § 102 by the Examiner fails to teach or suggest independent claims 1 and 24.

The present invention as stated in claim 1 relates to an exercise apparatus. The exercise apparatus includes a first treadle assembly, a second treadle assembly, an interconnection assembly, and a resistance element. The first treadle assembly provides a first moving surface, and is arranged to pivot. Likewise, the second treadle assembly provides a second moving surface, and is arranged to pivot. The interconnection assembly operatively couples the first treadle assembly and the second treadle assembly such that the pivotal movement of the first treadle assembly in a first direction drives the pivotal movement of the second treadle assembly in a second direction opposite of the first direction. Additionally, the resistance element is operably coupled with the interconnection assembly.

Regarding claim 1, the Examiner states that Liu discloses the claim limitation of "an interconnection assembly operatively couples the first treadle assembly and the second treadle assembly such that pivotal movement of the first treadle assembly in a first direction drives pivotal movement of the second treadle assembly in a second direction opposite of the first direction," as well as, the claimed limitation of "at least one resistance element operably coupled to the interconnection assembly." (emphasis added). However, Applicants submit that Liu fails to disclose an interconnection assembly or a resistance element as stated in claim 1.

Therefore, for at least the reasons stated below, claim 1 is patentable under 35 U.S.C. § 102 over Liu.

The primary reference, Liu, refers to an exerciser. The exerciser appears to include a first pedal 2 and a second pedal 2. For the sake of brevity, only one pedal will be discussed, since the first pedal 2 and the second pedal appear to have the same function and form. The pedal 2 is coupled to a first shaft 22 and a second shaft 23. See *Liu*, column 2, lines 5-13. Additionally, the pedal 2 is connected to an extension portion of the frame via a hydraulic cylinder 21, whereby by means of the reciprocation of the hydraulic cylinder 21, the pedal 2 can alternately move up and down. A sprocket 25 is disposed at one end of the first shaft 22 for the pedal 2; a chain 26 is wound around the sprocket 25. See *Liu*, column 2, lines 20-27. Additionally, the chain 26 is secured to the base 1 and the extension portion via an upper idler 27 and a lower idler 27. The two idlers 27 press the chain 26 against the sprocket 25 to keep the chain 26 meshing with the sprocket 25 by at least five teeth.

The Examiner states that Liu discloses the interconnecting assembly as the chain 26. Liu, however, does not appear to disclose, teach, or mention "a interconnection assembly operatively coupling the first treadle assembly and the second treadle assembly such that pivotal movement of the first treadle assembly in a first direction drives pivotal movement of the second treadle assembly in a second direction opposite of the first direction." As stated above, each pedal 2 has a chain 26, and the chain 26 only couples its respective pedal 2 to the frame or the extension portion 11. This allows each pedal 2 to operate independently of the other pedal 2. More specifically, each chain 26 provides a means to rotate or drive the rolling belt 211 of its respective pedal 2. Liu states that "a rolling belt 24 is drivingly wound around the first and second rollers 22, 23." See *Liu*, column 2, lines 13-15. Additionally, Liu states that a sprocket 26 is coupled to an end of the shaft 22 of the first roller; and the chain 26 is wound around the sprocket 25. See *Liu*, column 2, lines 20-22. As the user steps down on the pedal 2, the sprocket 25 rolls along the chain 26 causing the first roller to drive the rolling belt 24. Unlike "the interconnection assembly" stated in claim 1, the chain 26 does not connect the first pedal and the second pedal; the chain connects its respective pedal to the frame at the base 1 and the extension portion 11. See *Liu*, FIG. 3.

Even more, the chain 26 does not provide pivotal movement of the first pedal in a first direction that drives pivotal movement of the second pedal in a second direction opposite of the

first direction. Just the opposite, Liu allows each pedal to operate independent of one another. More specifically, under Liu, each pedal may independently operate in opposite or the same direction because the pedals 2 are not connected to one another. Additionally, Liu allows each pedal to travel a full range of motion independent of the other pedal, which allows it to operate in a full stepping motion. See *Liu*, column 1, lines 7-10. Thus, Liu does not appear to disclose "an interconnection assembly operatively coupling the first treadle assembly and the second treadle assembly such that pivotal movement of the first treadle assembly in a first direction drives pivotal movement of the second treadle assembly in a second direction opposite of the first direction." Therefore, as set forth above, claim 1 is patentable under 35 U.S.C. § 102 over Liu.

Even if Liu disclosed the interconnection assembly as stated in claim 1, which it does not, Liu fails to disclose, "at least one resistance element operably coupled to the interconnection assembly" as stated in claim 1. (emphasis added). As previously stated, the Examiner argues that the chain 26 is the interconnection assembly. In Liu, each resistance element 21 is connected to the upright portion 11 of the frame and one of the pedals 2. Likewise, each chain 26 is coupled to the frame, at the upright portion 11 and the base 1, and one of the pedals 2. Each of the chain 26 and the resistance element 21 are completely independent. In other words, the resistance element 21 is not operably coupled to the chain 26. Thus, Lui fails to teach, mention, or disclose "at least one resistance element operably coupled to the interconnection assembly" as stated in claim 1. (emphasis added). Therefore, at least the reasons set forth above, claim 1 is patentable 35 U.S.C. § 102 over Liu.

Applicant respectfully submits the arguments made for claim 1 equally apply with respect to claim 24. In view of the foregoing, Applicant respectfully submits that the claims 1 and 24 are patentable over Liu.

Dependent claims 2-6 and 36-37 all depend, directly or indirectly, from one of independent claims 1 and 24. Accordingly, these dependent claims are themselves patentable over Liu. Applicant makes this statement without reference to or waiving the independent bases of patentability in each dependent claim.

The Examiner also cites Eschenbach against claims 1, 3, 36, and 37 as a primary reference. However, Eschenbach was filed on August 5, 2003, and Applicants have claimed priority to several provisional applications that were filed on February 28, 2003. Under 35 U.S.C. § 102, a person shall be entitled to a patent unless the invention is a) known or used by

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others before the invention by the applicant, b) patented or described in a printed publication, in public use or on sale for more than one year prior to the date of the application for patent, and/or e) described in an application for patent by another filed in the United States before invention by the applicant for patent or a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent. Applicants submit that since this application's filing date predates the filing date and the patent date of Eschenbach, Eschenbach is not a reference that can be cited against this application under 35 U.S.C. § 102. Therefore, this rejection is moot.

Again, in view of the foregoing, Applicant respectfully submits that the claims 1 and 24 defines over the references cited by the Examiner. Dependent claims 2-3 and 36-37 all depend, directly or indirectly, from one of independent claims 1 and 24. Accordingly, these dependent claims are themselves patentable over the cited references. Applicant makes this statement without reference to or waiving the independent bases of patentability in each dependent claim.

#### **Response to Claim Rejections under 35 U.S.C. § 103**

Claims 3-6 have been rejected under 35 U.S.C. § 103 as being obvious and unpatentable over Liu in view of U.S. Patent No. 5,054,770 issued to Bull (herein referred to as "Bull"). Additionally, claims 36 and 37 have been rejected under 35 U.S.C. § 103 as being obvious and unpatentable over of in view of Liu and in view of U.S. Patent No. 6,461,279 issued to Kuo (herein referred to as "Kuo"). Applicants respectfully traverse the rejections.

Applicant respectfully suggests that the Examiner has not met the obviousness requirement and further respectfully suggests that the references cited by the Examiner fail to teach or suggest all limitations of independent claims 1 and 24.

The Examiner cites Liu as having all of the limitations of claim 1 and cites Bull as having all of the elements of claim 3. As shown above, Liu fails to disclose the claim limitation of either "an interconnection assembly operatively couples the first treadle assembly and the second treadle assembly such that pivotal movement of the first treadle assembly in a first direction drives pivotal movement of the second treadle assembly in a second direction opposite of the first direction," or "at least one resistance element operably coupled to the interconnection assembly." (emphasis added). Since Liu does not disclose, teach, or mention all of the

limitations of claim 1, claim 3 is patentable 35 U.S.C. § 103 over Liu in view of Bull, for at least the reasons stated above for claim 1.

Even if Liu disclosed all of the elements in claim 1, which it does not, neither Liu nor Bull provide a reason, suggestion, or motivation for a person of ordinary skill to have combined or modified the references. Section 2143.01 of the MPEP specifically states, "Obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so." Even more, Section 2143.01 states that "[t]he mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mill*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)." Section 2143.01 further states that "[i]f the proposed modification would render the prior art invention unsatisfactory for its intended purpose. . ." or "the proposed modification or combination would change the principle operation of the prior art invention being modified then the teachings of the references are not sufficient to render the claims *prima facie* obvious." Here, the combining of Liu with Bull not only renders Liu unsatisfactory for its intended purpose, but it also changes the principle of operation of Liu. Thus, for the following reasons, neither Liu nor Bull provides any suggestion or motivation to modify the references. Therefore, claims 3-6 are patentable under 35 U.S.C. § 103 over Liu in view of Bull.

As stated above, Liu discloses a first pedal 2 and a second pedal 2 that operate independently of one another; each pedal 2 is independently coupled to the frame via their respective chains 16 and/or resistance elements 21. By coupling the pedals 2 independently to the frame, each pedal 2 is allowed to travel a full range of motion independent of the other pedal 2 and/or operate in a stepping motion. See *Liu*, column 1, lines 5-10. This allows a user to use the exerciser as a mountaineering or stair climbing machine.

Bull, on the other hand, provides a first pedal 22 and a second pedal 24 that operate dependently on one other in a synchronizing movement. See *Bull*, FIG. 1. As shown in Bull, a rocker arm 54 is coupled to the first pedal 22 and the second pedal 24, such that as the first pedal 22 travels in one direction causing the second pedal 24 to travel in an opposite direction. If a person of ordinary skill in the art were to substitute the rocker arm in Bull for the chain assembly in Liu, it would change how the pedals in Liu operate. For example, the pedals, in Liu, would no longer operate independently of one another. The pedals would no longer operate in

a stepping movement. Additionally, the range of motion of each pedal would be limited based on the other pedal. This would essentially prevent the pedals in Liu from operating as a "running mountaineering or stairs [sic] climbing" exercising machine," thus, combining Liu and Bull not only renders Liu unsatisfactory for its intended purpose, but also changes the principle operation of Liu. Therefore, for at least the reasons set forth above, claims 3-6 are patentable under 35 U.S.C. § 103 over Liu in view of Bull because none of the references cited by the Examiner indicate a suggestion or motivation for combining the references.

#### **Claims Not Addressed by the Examiner**

Applicants respectfully point out that the Examiner did not address claim 19. Applicants believe that this claim is in a form for allowance, and such indication is respectfully requested.

Additionally, dependent claim 19 depends, directly or indirectly, from independent claim 1. Accordingly, these dependent claims are themselves patentable over the cited references for at least the same reasons as stated for claim 1. Applicants make this statement without reference to or waiving the independent bases of patentability in each dependent claim.

#### **Information Disclosure Statement (IDS)**

The Examiner requires that the Applicant (1) provide an explanation as to why each reference has been cited, (2) what specific feature in each reference is pertinent to respective limitations in the claims, and (3) how each reference cited defines over the claims, wherein (1), (2), and (3). See *Office Action 08/08/2006*.

Applicants respectfully refer the Examiner to the MPEP (Section 704.11) which specifically states, "[t]he terms 'factual' and 'facts' are included 37 C.F.R. §1.105 to make it clear that it is facts and factual information, that are known to applicant, or readily obtained after reasonable inquiry by applicant, that are sought, and that requirements under 37 C.F.R. § 1.105 are not requesting opinions that may be held or would be required to be formulated by applicant." In light of Section 704.11, Applicants have provided the following facts regarding the submitted references.

#### **U.S. Patent No. 219,439**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include two small cars, upon which to rest the patient's feet, and to which the feet

are secured by straps. A user appears to applies forces to move the two cars forwards and backwards.

**U.S. Patent No. 1,166, 304**

This reference appears to disclose an exercise device. The exercise device appears to include a treadle capable moving up and down in a vertical plane and pivoting in a horizontal plane about a spindle.

**U.S. Patent No. 2,374,730**

This reference is cited because it appears to disclose two pedals. The pedals are pivotally coupled at one end to a base.

**U.S. Patent No. 3,316,989**

This reference is cited because it appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of parallel and elongated plates which execute a reciprocating motion and are operably coupled to a base.

**U.S. Patent No. 3,408,067**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include a base frame having two moving surfaces. The base frame is pivotally attached to a floor or flat surface.

**U.S. Patent No. 3,511,511**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include two pressure pads that are pivotally coupled to a support member.

**U.S. Patent No. 3,525,522**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include two foot pedals that are pivotally coupled to an axle.

**U.S. Patent No. 3,529,474**

This reference is cited because it appears to disclose an exercise device. Looking at the Figures, the exercise device appears to include a pair of pedals and a central assembly to move the pair of pedals in an up and down direction.

**U.S. Patent No. 3,704, 886**

This reference appears to disclose an exercising machine. The exercising machine appears to include a pair of pedals and a pair of sheaves mounted for rotation upon a base. The pedals and the sheaves are operatively connected to a friction mechanism which opposes turning the pedals in the one direction and unwinding of the lines from the sheaves.

**U.S. Patent No. 3,741,540**

This reference is cited because it appears to disclose a training implement. The training implement appears to include footboards. The footboards are joined to a base so the footboards swing upwards.

**U.S. Patent No. 3,792,860**

This reference is cited because it appears to disclose a training apparatus. The training apparatus appears to include two platforms, one end of each of the platforms is pivotally connected to a frame. The platforms are also coupled to an adjustable supporting member. The supporting member is coupled to a crossbar.

**U.S. Patent No. 3,814,420**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include two space pedals pivotally secured to a support shaft and resiliently urged upwardly by spring elements.

**U.S. Patent No. 3,970,302**

This reference appears to disclose an exercise stair device. The exercise stair device appears to include two foot supports that move on adjacent tracks, such that as one moves up the other moves down, and vice versa.

**U.S. Patent No. 3,994,261**

This reference appears to disclose an exercising and training apparatus. The exercising and training apparatus appears to include a movable floor having an endless belt.

**U.S. Patent No. 4,185,622**

This reference appears to disclose an exerciser. The exerciser appears to include at least one foot pad for supporting and moving the foot of a user. The foot pad simulates the walking.

**U.S. Patent No. 4,423,864**

This reference appears to disclose a ski deck. The ski deck appears to disclose a pair of slide tracks mounted onto an endless belt to simulate a cross-country ski path.

**U.S. Patent No. 4,563,001**

This reference is cited because it appears to disclose a portable exercise device. The exercise device appears to include a pair of foot pedals pivotally coupled to a base.

**U.S. Patent No. 4,600,187**

This reference is cited because it appears to disclose a step exerciser. The exerciser appears to include a pair of step treads pivotally supported by a frame.

**U.S. Patent No. 4,632,385**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of foot support and guide members that are mounted for guided parallel reciprocal movement. The foot support platforms are interconnected for relative movement in only opposite reciprocal directions.

**U.S. Patent No. 4,645,200**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedal bars that terminate into foot pedals that move in a substantially linear back-and-forth type of motion.

**U.S. Patent No. 4,659,077**

This reference appears to disclose an exercise device that simulates cross-country skiing. The exercise device appears to include a pair of foot plates that are mounted onto a pair of tracks extending along a base frame.

**U.S. Patent No. 4,679,786**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include four slides. Each slide travels along a path, enabling reciprocating motion that is enable by a cable.

**U.S. Patent No. 4,685,666**

This reference is cited because it appears to disclose a climbing simulation exercise device. The exercise device appears to include a pair of interconnected hydraulic cylinders affixed to an incline plane in a fashion allowing an angular movement and a pair of steps one of each hung from cylinder rods of the hydraulic cylinders.

**U.S. Patent No. 4,733,858**

This reference appears to disclose an exerciser. The exerciser appears to include two pedals mounted onto two racks and connected to two sliding rods.

**U.S. Patent No. 4,838,543**

This reference is cited because it appears to disclose an exercise device. The exercise device appears to include a pair of foot beams pivotally mounted to a frame and a pair of shock absorbers pivotally connected to the foot beams at one end and the support frame at a point above the foot beams.

**U.S. Patent No. 4,813,667**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of foot pedals mounted on a pair of tracks.

**U.S. Patent No. 4,842,268**

This reference appears to disclose an exercise machine. The exercise machine appears to include a pair of foot pedals mounted for reciprocal substantially parallel movement along a linear first path.

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**U.S. Patent No. 4,850,585**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of leg member and associated foot supports depend from and rotatably coupled with a pair of journal connected to a frame.

**U.S. Patent No. 4,900,013**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of pedals coupled to a pair of travelers that are supported internally to a rail of a frame.

**U.S. Patent No. 4,940,233**

This reference appears to disclose an aerobic conditioning apparatus. The apparatus appears to include a pair of foot supports mounted on a frame for controlling the movement of the feet of a user.

**U.S. Patent No. 4,949,954**

This reference appears to disclose a bicycle-simulation exercise device. The device appears to include a pair of foot pedals and hand grips.

**U.S. Patent No. 4,989,857**

This reference appears to disclose a climbing-type exercise apparatus. It appears to include a pair of pedals connected to an oscillating rod that in turn pivotally coupled to a link.

**U.S. Patent No. 5, 000, 443**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a pair of legs fitted with foot supports.

**U.S. Patent No. 5,013,031**

This reference appears to disclose an exercise apparatus that simulates stair climbing. The apparatus appears to include a pair of foot levers pivotally connected to a support structure.

**U.S. Patent No. 5,026,046**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The cylinders are in turn coupled to a base.

**U.S. Patent No. 5,039,087**

This reference appears to disclose a climbing-type exercise apparatus. It appears to include a pair of pedals coupled to a base.

**U.S. Patent No. 5,039,088**

This reference appears to disclose an exercise machine. The exercise machine appears to include a pair of foot levers pivotally mounted on a frame for up and down movement in a generally vertical direction, with pedals carried by the foot levers for engagement by the feet of a person using the machine.

**U.S. Patent No. 5,040,785**

This reference appears to disclose an exercise machine. The exercise machine appears to include foot pedals mounted to reciprocating separate sliding trucks with move within a track structure.

**U.S. Patent No. 5,054,770**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals pivotally coupled at one end to a frame such that the pedals move in an up and down motion.

**U.S. Patent No. 5,062,627**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The pair of pedals are also coupled at one end to a support frame. The hydraulic cylinders are coupled to the support frame above a point of connection for the pair of pedals.

**U.S. Patent No. 5,078,389**

This reference appears to disclose an exercise machine. The exercise machine appears to include a footrest rotatably secured to a top of a mount.

**U.S. Patent No. 5,071,115**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The pair of pedals are also coupled at one end to a support frame. The hydraulic cylinders are coupled to the support frame above a point of connection for the pair of pedals.

**U.S. Patent No. 5,090,690**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The pair of pedals are also coupled at one end to a base frame. The hydraulic cylinders are coupled to a support frame above a point of connection for the pair of pedals.

**U.S. Patent No. D326,491**

This reference appears to disclose a stepping exercise machine. The stepping exercise machine appears to include two pedals pivotally coupled to a frame.

**U.S. Patent No. 5,129,872**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include foot beams rotatably mounted to an upright post member.

**U.S. Patent No. 5,129,873**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a support frame via a pair of hydraulic cylinders.

**U.S. Patent No. 5,131,895**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of rails in parallel relation supported on a frame. A pair of foot supports are coupled to two travelers that are coupled to the rails.

**U.S. Patent No. 5,145,481**

This reference appears to disclose an exercise device. The exercise device appears to include wheeled foot skate assemblies positioned on three tracks.

**U.S. Patent No. 5,149,084**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a support frame via hydraulic cylinders.

**U.S. Patent No. 5,163,888**

This reference appears to disclose a resistance exercise device. The exercise device appears to include a pair of pedals coupled to a frame.

**U.S. Patent No. 5,180,353**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled a support frame via hydraulic cylinders.

**U.S. Patent No. 5,183,448**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The pair of pedals are also coupled at one end to a support frame. The hydraulic cylinders are coupled to the support frame above a point of connection for the pair of pedals.

**U.S. Patent No. 5,186,697**

This reference appears to disclose stair exercising equipment. The equipment appears to include powered means for a movable staircase, for an incline, or for reciprocating pedals to rise.

**U.S. Patent No. 5,188,577**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a pair of hydraulic cylinders. The pair of pedals are also coupled at one end to a support frame. The hydraulic cylinders are coupled to the support frame above a point of connection for the pair of pedals.

**U.S. Patent No. 5,207,621**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals that are operable via a computer.

**U.S. Patent No. 5,226,866**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of slideable foot restraints mounted within rails adjacent to a treadmill to simulate a cross country skiing exercise.

**U.S. Patent No. 5,238,462**

This reference appears to disclose a stair-type exercise apparatus. The apparatus appears to include two pedals coupled to a frame.

**U.S. Patent No. 5,246,410**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a support frame.

**U.S. Patent No. 5,254,067**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals and at least one hydraulic cylinder coupled to one end of the pair of pedals.

**U.S. Patent No. 5,256,117**

This reference appears to disclose an apparatus for simultaneous upper body exercise and lower body exercise.

**U.S. Patent No. 5,267,923**

This reference was cited because it appears to disclose an exercise machine. The exercise machine appears to include a pair of platforms coupled to a pair of springs. The pair of springs are in turn coupled to a base.

**U.S. Patent No. 5,279,529**

This reference appears to disclose an exercise apparatus that simulates uphill cycling. The exercise apparatus appears to include pedal platforms to support each foot as it moves through an exercise cycle.

**U.S. Patent No. 5,290,211**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of foot supports on which a user stands for performing a stair stepping exercise.

**U.S. Patent No. 5,295,928**

This reference appears to disclose stair-exercising equipment. The equipment appears to include powered means for a moveable staircase, for an incline, or for reciprocating pedals to rise, thereby allowing a person to walk downhill.

**U.S. Patent No. 5,299,992**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals and a pair of hydraulic cylinder coupled to the pair of pedals.

**U.S. Patent No. 5,299,993**

This reference appears to disclose an exercise machine. The exercise machine appears to include a pair of laterally spaced apart foot pedals, each independently coupled to a frame.

**U.S. Patent No. 5,318,490**

This reference was cited because it appears to disclose an exercise device. The exercise device appears to include a pair of pedals and at least one hydraulic cylinder coupled to the pair of pedals.

**U.S. Patent No. 5,338,271**

This reference appears to disclose an exerciser device for simulating mountain climbing and running. The exerciser device appears to include a pair of pedals pivotally coupled to a base. The pedals appear to pivotally move in an up and down motion.

**U.S. Patent No. 35,344,371**

This reference appears to disclose an exerciser device for simulating mountain climbing and running. The exerciser device appears to include a pair of pedals pivotally coupled to a base. The pedals appear to pivotally move in an up and down motion.

**U.S. Patent No. 5,372,560**

This reference appears to disclose exercise equipment. The exercise equipment appears to include a base having two endless belts separated and parallel to one another.

**U.S. Patent No. 5,374,227**

This reference appears to disclose a stair stepping exercising apparatus. The apparatus appears to include left and right foot platforms pivotally connected to a frame by links.

**U.S. Patent No. 5,401,226**

This reference appears to disclose an exercise device. The device appears to include foot supports on which a user stands for performing a stair stepping exercise and/or a cross country skiing exercise. Linkage support frames operatively coupled to the foot supports maintain the foot supports in a horizontal plane. A fluid cylinder provides a mechanism for revisiting a vertical movement of the foot supports.

**U.S. Patent No. 5,411,454**

This reference appears to disclose sporting equipment, such as a climber-type apparatus. The sporting equipment appears to include a pair of pedals coupled to a pair of actuating members to move the pedals in an up and down motion.

**U.S. Patent No. Re. 34,959**

This reference appears to disclose a climber-type exercise apparatus. The apparatus appears to include a pair of pedals that operate independently of one another. Each pedal oscillates between an upper position and a lower position.

**U.S. Patent No. 5,429,563**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a base, a treadmill mounted to the base, and a pair of foot skates placed in rolling engagement with an upper surface of the treadmill.

**U.S. Patent No. 5,445,583**

This reference appears to disclose a leg exerciser. The leg exerciser appears to include a pair of beams pivotally mounted on each side of a frame and a pair of footpads mounted to forward ends of the beams. The beams independently pivot on the frame, so that a user can operate them in alternating reciprocating fashion.

**U.S. Patent No. 5,499,956**

This reference appears to disclose an exercise machine. The exercise machine appears to include a pair of laterally spaced apart foot pedal, each of which is independently coupled to a frame.

**U.S. Patent No. 5,584,781**

This reference appears to disclose a striding exerciser. The exerciser appears to include a pair of pedals coupled to a pair of posts, where the posts are pivotally coupled to an upper portion of a base.

**U.S. Patent No. 5,595,553**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a pair of foot members coupled to a pair of linkage assemblies that allow the user to move each foot in a closed path.

**U.S. Patent No. 5,595,555**

This reference appears to disclose an exercise apparatus. The apparatus appears to include two suspension bars respectively having a foot rest at a bottom end thereof.

**U.S. Patent No. 5,605,521**

This reference appears to disclose a striding exerciser. The exerciser appears to include a pair of stride assemblies mounted to a frame and each including a leg member and an arm member arranged to pivot about respective pivot axes.

**U.S. Patent No. 5,613,924**

This reference appears to disclose a body exerciser. The body exerciser appears to include a pair of walking units connected pivotally to a support frame.

**U.S. Patent No. 5,624,354**

This reference appears to disclose a striding exerciser. The exerciser appears to include two posts with foot supports. The posts pivotally coupled to a base.

**U.S. Patent No. 5,643,140**

This reference appears to disclose a striding exerciser. The exerciser appears to include two swing members pivotally coupled to a stand.

**U.S. Patent No. 5,643,153**

This reference appears to disclose exercise equipment. As shown in FIG. 5, the exercise equipment appears to include a pair of pedals coupled to a support base via a pair of hydraulic cylinders.

**U.S. Patent No. 5,658,223**

This reference appears to disclose an exerciser. The exerciser appears to include a pair of foot beams mounted to a frame. The foot beams independently pivot on the frame.

**U.S. Patent No. 5,720,698**

This reference appears to disclose a striding exerciser. The exerciser appears to include a pair of swing members with foot supports. The swing members are pivotally coupled to a stand.

**U.S. Patent No. D392,006**

This reference appears to disclose a striding exerciser. The exerciser appears to include a pair of swing members with foot supports. The swing members are pivotally coupled to a stand.

**U.S. Patent No. 5,741,205**

This reference appears to disclose an exercise mechanism. The mechanism appears to include a pair of pedal members rotatably attached to a frame and a foot pedal rotatably.

**U.S. Patent No. 5,749,807**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a pair of pedals pivotally coupled to a base frame, such that the pedals move in an up and down motion.

**U.S. Patent No. 5,803,880**

The reference appears to disclose an exercise device. The device appears to include a pair of foot supports coupled to a frame, such that the foot supports move in an up and down motion.

**U.S. Patent No. 5,810,696**

The reference appears to disclose an exercise apparatus. The apparatus appears to include a pair of pedals pivotally coupled to a frame, such that the pedals move in an up and down motion.

**U.S. Patent No. 5,876,307**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedal assemblies pivotally coupled to a frame.

**U.S. Patent No. 5,882,281**

This reference appears to disclose an exercise device. The exercise device appears to include links to a crank to generally elliptical motion of a foot supporting member.

**U.S. Patent No. 5,897,459**

This reference appears to disclose an exerciser. The exerciser appears to include a pair of footbeams mounted to a frame and generally extending upwardly.

**U.S. Patent No. 5,908,373**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a pair of pedal arms, each of which is connected to respective pivot points.

**U.S. Patent No. 5,964,682**

This reference appears to disclose an exercise machine. The machine appears to include a pair of leg levers mounted onto a frame. The levers have foot supports and are rotatable through a limited but large arc.

**U.S. Patent No. 5,989,163**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of rails and a pair of travelers (or foot rests) movably engaged with the frame.

**U.S. Patent No. 6,042,518**

This reference appears to disclose an exerciser. The exerciser appears to include a pair of leg assemblies supported by a frame for pivoting movement about a pivot axis transverse to a longitudinal axis.

**U.S. Patent No. 6,106,439**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals pivotally coupled to a frame.

**U.S. Patent No. 6,123,650**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of foot platforms rollably engaged with drive wheels that allow the platforms to rotate independently of one another.

**U.S. Patent No. 6,152,859**

This reference appears to disclose an exercise device. The exercise device appears to include leg driven members with pedals that are moveably mounted on a frame.

**U.S. Patent No. 6,165,107**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of foot platforms that engage drive wheels.

Appl. No. 10/789,294  
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**U.S. Patent No. 6,183,397**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of leg driven members movably mounted on a frame.

**U.S. Patent No. 6,183,397**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of foot platforms configured to move through a generally elliptical path of motion.

**U.S. Patent No. 6,302,830**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of foot skates that are constrained to move back and forth in reciprocal fashion and a pair of foot platforms that are movably mounted on the foot skates. The foot platforms are constrained to move up and down in reciprocal fashion.

**U.S. Patent No. 6,626,802**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of foot carriage assemblies that are movably coupled to a rail of a frame.

**U.S. Patent Pub. No. 2004/0209738**

This reference appears to disclose an exercise apparatus. The apparatus appears to include a control system that is configured to operate a combined treadmill and stepper machine.

**U.S. Patent Pub. No. 2004/0214693**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of treadles that are pivotally mounted to a frame.

**U.S. Patent Pub. No. 2005/0026752**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of foot pedals that are configured to travel a foot path that adapts to change in a user's stride length.

**U.S. Patent Pub. No. 2005/0037898**

This reference appears to disclose an exercise machine. The machine appears to include a pair of treadles coupled to a frame via a pair of hydraulic cylinders.

**U.S. Patent Pub. No. 2005/0202939**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to links that allow a user to vary his stride path during exercise.

**U.S. Patent Pub. No. 2005/029061**

This reference appears to disclose an exercise apparatus. As shown in FIG. 1, the exercise apparatus appears to include a pair of treadles coupled to a frame.

**U.S. Patent Pub. No. 2005/020959**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of treadles coupled to a frame.

**U.S. Patent Pub. No. 2005/020960**

This reference appears to disclose an exercise device. This exercise device appears to include a pair of treadles coupled to a frame.

**U.S. Patent Pub. No. 2005/0233864**

This reference appears to disclose an exercise device. This exercise device appears to include a pair of treadles coupled to a frame.

**U.S. Patent Pub. No. 2006/0003868**

This reference appears to disclose an exercise device. This exercise device appears to include a pair of pedals coupled to link assemblies to a vary a user's stride path during exercise.

**DE 380370**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of racing plates that can be pushed down against the action of springs by a runner.

**DE 2225342**

This reference appears to disclose a pneumatic spring. The pneumatic spring is suitable to serve as a self-supporting, length-adjustable, spring-loaded rotatable element in a chair post.

**DE 2408052**

This reference appears to disclose a compressed-gas-filled spring. The spring appears to include a piston and a piston rod that are displaced within an inner cylinder.

**DE 2408055**

This reference appears to disclose a length-adjustable hydraulically-blockable adjustment device. The device appears to include an inner cylinder that has a piston rod .

**DE 2428515**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a pair of pedals pivotally coupled to a frame.

**EP 2428055**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a treadle with two moving surfaces.

**EP 0417970**

This reference appears to disclose an exercise apparatus. The exercise apparatus appears to include a treadle with two moving surfaces.

**GB 1505702**

This reference appears to disclose a lengthwise-adjustable gas spring. The spring appears to include two cylinders mounted coaxially one inside the other, and with a piston displaceably mounted in the inner cylinder.

**TW 472593**

This reference appears to disclose an exercise device. As shown in FIG. 3, the exercise device appears to include two foot platforms coupled to a frame.

**TW 547102**

This reference appears to disclose an exercise device. As shown in FIG. 1, the exercise device appears to include a pair of treadles pivotally coupled to a frame.

**"A Brief look at Airpot"**

This reference appears to disclose a hydraulic cylinder. The hydraulic cylinder appears to include a piston that moves within a cylinder.

**Owner's Manual for Weider Flex CTS Cross Training System for Model No. 870300**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a frame via a pair of hydraulic cylinders.

**Catalog, Diamond House International, Inc.**

This reference appears to disclose several exercise devices. Each of several exercise devices appears to include a treadle having an endless belt. Each of several other exercise devices appears to include a pair of pedals coupled to a frame.

**Men's Fitness, "It's a stairmill . . . It's a treadclimber . . . It's an EFX**

This reference appears to disclose an exercise device. The exercise device appears to include a pair of pedals coupled to a frame.

**Nautilus Home and Fitness Catalog**

This reference appears to disclose several exercise devices. As shown on pages 5-7, each of several exercise devices appears to include a pair of treadles coupled to a frame. On shown pages 7-11, each of several exercise devices appears to include a pair of pedals coupled to a frame.

**SUPPLEMENTAL IDS**

Applicants have submitted a timely Supplemental IDS to be considered by the Examiner in accordance with MPEP § 609.04. Applicants would like to thank the Examiner, in advance, for his time and patience for considering and reviewing the submitted art that is disclosed in the IDS. Additionally, Applicants would like to apologize for any inconvenience that this timely submission may cause the Examiner.

**CONCLUSION**

Applicants thank the Examiner for their careful review of the pending claims and respectfully submits that the claims are now in condition for allowance. The arguments and amendments made herein are believed to only be clarifying to the features of the claims, or the distinctions between the claims and the cited prior art, and these are not believed to established any estoppel for the purposes of interpretation at a later date. In light of the above arguments, these rejections are moot.

This Amendment is submitted with a petition for a three month extension of time in accordance with 37 CFR § 1.136(a). Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$1,020.00 for the three month extension of time fee. The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

No fees are believed to be due with this Amendment beyond the \$1,202.00 fee for the three month extension of time. However, if any additional fees are required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Respectfully submitted,

Date: February 8, 2007

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